IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 4376 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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ILA AMBALAL PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 4376 of 2002

MR MC BAROT for Petitioner No. 1

MR KC SHAH APP for Respondent No. 1

MR RJ GOSWAMI for respondent No.2.

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 23/07/2002

ORAL JUDGEMENT

1. Rule. Mr. KC Shah, learned APP appears and waives the service of notice of rule on behalf of respondent No.1 - State of Gujarat whereas Mr. RJ Goswami, learned advocate appears and waives the service

of notice of rule on behalf of respondent No.2.

2. In this petition which is filed under section 482 of the Code of Criminal Procedure, petitioner against whom Criminal Case No. 1291 of 2002 for the commission of the alleged offences u/s. 494, 406, 506 (1) and 114 of the Indian Penal Code is registered in the court of learned Chief Judicial Magistrate, Godhra has prayed to quash the said criminal case and also the order dated 27.6.2002 of issuance of process passed thereunder and the order dated 4.7.2002 recorded below application Ex.5 by which the passport of the petitioner is ordered to be deposited before the Court.

2. Mr. Barot, learned advocate for the petitioner and Mr.Goswami, learned advocate for respondent No.2/original complainant jointly submitted that an amicable settlement has been arrived at between the parties outside the Court by obtaining customary divorce and in this regard they have put the written consent terms for perusal of this Court. Therefore, appropriate orders for quashing and setting aside the complaint as also the process issued thereuner and the order directing to deposit the passport may be passed. Mr. KC Shah, learned APP for respondent No.1 has no objection if appropriate orders are passed in view of the settlement arrived at between the parties.

3. Having heard the learned advocates for the parties and having perusal of the averments made in the memo of petition, grounds set out therein and the documents annexed therewith and the consent terms alongwith its annexure, i.e., document of customary divorce deed, I am of the opinion that since the parties have arrived at amicable settlement and by virtue of the said settlement both the parties have decided to dissolve their marriage by way of customary divorce, the petition deserves to be allowed by granting the prayers made therein.

4. For the foregoing reasons, the petition succeeds and accordingly it is allowed. Criminal Case No. 1291 of 2002 registered with the learned Chief Judicial Magistrate, Godhra and the process issued thereuner as also the order dated 4.7.2002 recorded below application EX.5 directing the petitioner to deposit the passport with the court is quashed and set aside. Rule is made absolute.

5. The consent terms alongwith its annexure, that is, customary divorce deed, shall be retained on the

record of the case.

6. Packet of the writ of this order shall be handed over to Mr. MC Barot, learned advocate for the petitioner forthwith.

(A. M. Kapadia, J.)

(karan)